

**§ 51.611 Interim wholesale rates.**

(a) If a state commission cannot, based on the information available to it, establish a wholesale rate using the methodology prescribed in § 51.609, then the state commission may elect to establish an interim wholesale rate as described in paragraph (b) of this section.

(b) The state commission may establish interim wholesale rates that are at least 17 percent, and no more than 25 percent, below the incumbent LEC's existing retail rates, and shall articulate the basis for selecting a particular discount rate. The same discount percentage rate shall be used to establish interim wholesale rates for each telecommunications service.

(c) A state commission that establishes interim wholesale rates shall, within a reasonable period of time thereafter, establish wholesale rates on the basis of an avoided retail cost study that complies with § 51.609.

**§ 51.613 Restrictions on resale.**

(a) Notwithstanding § 51.605(b), the following types of restrictions on resale may be imposed:

(1) *Cross-class selling.* A state commission may permit an incumbent LEC to prohibit a requesting telecommunications carrier that purchases at wholesale rates for resale, telecommunications services that the incumbent LEC makes available only to residential customers or to a limited class of residential customers, from offering such services to classes of customers that are not eligible to subscribe to such services from the incumbent LEC.

(2) *Short term promotions.* An incumbent LEC shall apply the wholesale discount to the ordinary rate for a retail service rather than a special promotional rate only if:

(i) Such promotions involve rates that will be in effect for no more than 90 days; and

(ii) The incumbent LEC does not use such promotional offerings to evade the wholesale rate obligation, for example by making available a sequential series of 90-day promotional rates.

(b) With respect to any restrictions on resale not permitted under paragraph (a), an incumbent LEC may impose a restriction only if it proves to

the state commission that the restriction is reasonable and nondiscriminatory.

(c) *Branding.* Where operator, call completion, or directory assistance service is part of the service or service package an incumbent LEC offers for resale, failure by an incumbent LEC to comply with reseller unbranding or rebranding requests shall constitute a restriction on resale.

(1) An incumbent LEC may impose such a restriction only if it proves to the state commission that the restriction is reasonable and nondiscriminatory, such as by proving to a state commission that the incumbent LEC lacks the capability to comply with unbranding or rebranding requests.

(2) For purposes of this subpart, unbranding or rebranding shall mean that operator, call completion, or directory assistance services are offered in such a manner that an incumbent LEC's brand name or other identifying information is not identified to subscribers, or that such services are offered in such a manner that identifies to subscribers the requesting carrier's brand name or other identifying information.

**§ 51.615 Withdrawal of services.**

When an incumbent LEC makes a telecommunications service available only to a limited group of customers that have purchased such a service in the past, the incumbent LEC must also make such a service available at wholesale rates to requesting carriers to offer on a resale basis to the same limited group of customers that have purchased such a service in the past.

**§ 51.617 Assessment of end user common line charge on resellers.**

(a) Notwithstanding the provision in § 69.104(a) of this chapter that the end user common line charge be assessed upon end users, an incumbent LEC shall assess this charge, and the charge for changing the designated primary interexchange carrier, upon requesting carriers that purchase telephone exchange service for resale. The specific end user common line charge to be assessed will depend upon the identity of the end user served by the requesting carrier.

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(b) When an incumbent LEC provides telephone exchange service to a requesting carrier at wholesale rates for resale, the incumbent LEC shall continue to assess the interstate access charges provided in part 69 of this chapter, other than the end user common line charge, upon interexchange carriers that use the incumbent LEC's facilities to provide interstate or international telecommunications services to the interexchange carriers' subscribers.

### Subpart H—Reciprocal Compensation for Transport and Termination of Telecommunications Traffic

EDITORIAL NOTE: Nomenclature changes to subpart H appear at 66 FR 26806, May 15, 2001.

#### § 51.700 Purpose of this subpart.

The purpose of this subpart, as revised in 2011 by FCC 11–161 is to establish rules governing the transition of intercarrier compensation from a calling-party's-network pays system to a default bill-and-keep methodology. Following the transition, the exchange of telecommunications traffic between and among service providers will, by default, be governed by bill-and-keep arrangements.

NOTE TO § 51.700: See FCC 11–161, figure 9 (chart identifying steps in the transition).

[76 FR 73854, Nov. 29, 2011]

#### § 51.701 Scope of transport and termination pricing rules.

(a) Effective December 29, 2011, compensation for telecommunications traffic exchanged between two telecommunications carriers that is interstate or intrastate exchange access, information access, or exchange services for such access, other than special access, is specified in subpart J of this part. The provisions of this subpart apply to Non-Access Reciprocal Compensation for transport and termination of Non-Access Telecommunications Traffic between LECs and other telecommunications carriers.

(b) *Non-Access Telecommunications Traffic.* For purposes of this subpart, Non-Access Telecommunications Traffic means:

(1) Telecommunications traffic exchanged between a LEC and a telecommunications carrier other than a CMRS provider, except for telecommunications traffic that is interstate or intrastate exchange access, information access, or exchange services for such access (see FCC 01–131, paragraphs 34, 36, 39, 42–43); or

(2) Telecommunications traffic exchanged between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area, as defined in § 24.202(a) of this chapter.

(3) This definition includes telecommunications traffic exchanged between a LEC and another telecommunications carrier in Time Division Multiplexing (TDM) format that originates and/or terminates in IP format and that otherwise meets the definitions in paragraphs (b)(1) or (b)(2) of this section. Telecommunications traffic originates and/or terminates in IP format if it originates from and/or terminates to an end-user customer of a service that requires Internet protocol-compatible customer premises equipment.

(c) *Transport.* For purposes of this subpart, transport is the transmission and any necessary tandem switching of Non-Access Telecommunications Traffic subject to section 251(b)(5) of the Communications Act of 1934, as amended, 47 U.S.C. 251(b)(5), from the interconnection point between the two carriers to the terminating carrier's end office switch that directly serves the called party, or equivalent facility provided by a carrier other than an incumbent LEC.

(d) *Termination.* For purposes of this subpart, termination is the switching of Non-Access Telecommunications Traffic at the terminating carrier's end office switch, or equivalent facility, and delivery of such traffic to the called party's premises.

(e) *Non-Access Reciprocal Compensation.* For purposes of this subpart, a Non-Access Reciprocal Compensation arrangement between two carriers is either a bill-and-keep arrangement, per § 51.713, or an arrangement in which